

REMARKS

The present response is to the Office Action mailed in the above-referenced case on January 30, 2007. In the present action claims 37-42 stand rejected under 35 U.S.C. 103(a) over Kellison, US 4875808, hereinafter Kellison, in view of McMahon, US 6061990, hereinafter McMahon.

The applicant has carefully studied the teachings of Kellison and McMahon, and the examiner's reasoning and remarks. In response the applicant has amended claims 37 and 41 to be substantially more narrow, and has canceled claim 39.

In the current rejection Kellison shows a resilient footing for a post, albeit for a somewhat different purpose. In every instance in Kellison the post and the footing are round. The examiner admits in the action that Kellison does not teach the non-constant cross-section (now amended), and applies McMahon for that limitation. The applicant believes that McMahon is a poor reference because the anchor of McMahon is taught for fastening to a slab of concrete or other settable material (see Abstract), yet the examiner states that McMahon teaches features "...for engaging the surrounding earth..." There doesn't seem to be any overlap to join McMahon with Kellison in a 103(a) rejection.

Still, the applicant has now amended claim 37 to recite the shape and structure of the body of the post anchor as shown in applicant's Fig. 3, with rather narrow limitation to the two portions, the lower a truncated pyramid and the upper a constant square cross-section. The McMahon reference does not read on these new limitations in any way.

Applicant has also amended claim 41 to more particularly claim the extensions from the base that engage surrounding earth, and the newly-claimed features are not shown in the references.

Claim 37 is now patentable over the newly-applied art, taken either singly or in combination, and remaining independent claims 38, and 40-42 are patentable on their merits or at least as depended from a patentable claim.

As all of the claims now standing for examination as argued above have been shown to be patentable over the art of record, applicant respectfully requests reconsideration and that the present case be passed quickly to issue. If there are any time extensions due beyond any extension requested and paid with this amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

Respectfully Submitted,
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